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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/614,107      | 07/12/2000  | Dillis V. Allen      | G-33                | 1565             |

7590 02/19/2003

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EXAMINER

BLAU, STEPHEN LUTHER

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 02/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/614,107

Applicant(s)

ALLEN, DILLIS V.

Examiner

Stephen L. Blau

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 21 January 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Specification***

1. The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). In addition the abstract exceeds 25 lines of text and 150 words in length. A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text, and at a proper length. Correction is required. See MPEP § 608.01(b).

2. The argument with respect to a line of golf clubs is agreed with and the objection is removed. The change to claim 20 is agreed with and the objection for failing to provide proper antecedent basis has been removed.

3. The specification is objected to under 37 C.F.R. article 1.71 for not being written in a exact way to enable one skilled in the art to make or use the same. Specifically it is uncertain how to make the face wall interchangeable as stated on page 32 lines 1-5.

***Priority***

4. Updating the status of case 09/344,172 is agreed with.

***Drawings***

5. Submitted figures 30-32 are agreed with and have been approved and entered into the case.
6. The arguments with respect to figures 14-16 are agreed with and the objections to under 37 CFR 1.83(a) have been removed.
7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the interchangeable face walls in claims 10-12 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. The changes to claim 20 and canceling claims 13-19 are agreed with and the rejections under 35 U. S. C. 112, second paragraph, have been removed.

10. Claims 1-9 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 4, and 20 are indefinite in that the claims state, "said secondary planar wall ... solely supported on the perimeter wall, ...face wall being fixed adjacent the perimeter of the secondary wall". As shown in figure 5 and due to the face wall being fixed adjacent (having a common border) the perimeter of the secondary wall it appears that the face wall also supports the secondary planar wall. The examiner recommends amending these claims to state -- said secondary planar wall being formed integrally with the perimeter wall and said secondary planar wall being solely supported on the perimeter wall and the face wall, ... -- to overcome this rejection. ✓

11. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

12. Claims 10-12 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is uncertain how the face walls are interchangeable in claims 10-12. ✓

### ***Double Patenting***

13. The terminal disclaimer is agreed with and has been entered and as such the rejections under the judicially created doctrine of obviousness-type double patenting over claims of U.S. Patent No. 6,354,961 have been removed.

### ***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Elmer in view of Shaw, Dill and Werner.

Elmer discloses a head body having a wall receiving element (Fig. 2), a plurality of interchangeable (Col. 6, Lns. 1-4) different characteristic face walls in the form of different material (Col. 5, Lns. 8-15) fixed to a wall receiving element in order to meet the requirements of different golfers by changing the striking characteristics (Col. 5, Lns. 56 through Col. 6, Lns. 12).

Elmer lacks the striking characteristics being modulus of elasticity, a line of clubs, a perimeter wall, and a shaft. Shaw discloses selecting face piece material based on flexural modulus (Col. 2, Lns. 13-24) in order to suit the attributes of a specific golfer (Col. 1, Lns. 60-64). In view of the patent of Shaw it would have been obvious to modify the head of Elmer to have interchangeable face wall each having a different modulus of elasticity in order to suit the attributes of a specific golfer. Dill discloses a face wall attached to a body (Fig. 1) which is hollow (Col. 4, Lns. 45-65) and a shaft (70). In view of the patent of Dill it would have been obvious to modify the head of Elmer to be hollow in order to form a light weight head. As such the head of Elmer would have a perimeter wall. In view of the patent of Dill it would have been obvious to include in the head of Elmer a shaft in order to increase the velocity of a head at impact. Werner discloses a line of heads to select from with different characteristics (Table 2). In view of the patent of Werner it would have been obvious to include in the head of Elmer a line of clubs each with a different face wall in order to simplify the selection process by not have to replace the face wall each time a club is being tested out for the purpose of selecting a club to buy or use.

16. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Elmer in view of Shaw, Dill and Werner as applied to claim 10 above, and further in view of McKeighen.

Elmer lacks face walls having progressively increasing thickness in a line. McKeighen discloses a line of heads having progressively increasing thickness (Figs. 4-6, Col. 3, Lns. 28-35). In view of the patent of McKeighen it would have been obvious to modify the line of clubs of Elmer to have face walls with different face thicknesses in order to utilize the advantages of different face wall thicknesses for players selecting a club to play with.

17. Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lu in view of Elmer, Shaw and Werner.

Lu discloses a perimeter wall, an abutment wall spaced from and immediately behind the face wall, a gap between an abutment wall and a face wall being between .01-.30 inches (Col. 6, Lns. 20-26), and a face wall being made of different materials (Col. 6, Lns. 4-16).

Lu lacks an interchangeable face wall with different characteristics, the different striking characteristics being modulus of elasticity, and a line of clubs. Elmer discloses a head body having a wall receiving element (Fig. 2), a plurality of interchangeable (Col. 6, Lns. 1-4) different characteristic face walls in the form of different material (Col. 5, Lns. 8-15) fixed to a wall receiving element in order to meet the requirements of



different golfers by changing the striking characteristics (Col. 5, Lns. 56 through Col. 6, Lns. 12) and to replace parts without replacing an entire club (Col. 5, Lns. 32-37). In view of the patent of Elmer it would have been obvious to modify the head of Lu to have interchangeable face wall with different characteristics in order to meet the requirements of different golfers by changing the striking characteristics and in order to replace different parts without having to replace the entire club. Shaw discloses selecting face piece material based on flexural modulus (Col. 2, Lns. 13-24) in order to suit the attributes of a specific golfer (Col. 1, Lns. 60-64). In view of the patent of Shaw it would have been obvious to modify the head of Lu to have interchangeable face walls each having a different modulus of elasticity in order to suit the attributes of a specific golfer. Werner discloses a line of heads to select from with different characteristics (Table 2). In view of the patent of Werner it would have been obvious to include in the head of Lu a line of clubs each with a different face wall in order to simplify the selection process by not have to replace the face wall each time a club is being tested out for the purpose of selecting a club to buy or use.

### ***Response to Arguments***

18. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

### ***Conclusion***

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. O'Doherty discloses secondary walls integral and solely supported by a perimeter wall. O'Doherty dose not disclose a face adjacent a perimeter of a secondary wall.


21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Blau whose telephone number is (703) 308-2712.

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The examiner is available Monday through Friday from 8 a.m. to 4:30 p.m.. If the examiner is unavailable you can contact his supervisor Paul Sewell whose telephone number is (703) 308-2126. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0858.

Slb 12 February 2003

  
**STEPHEN BLAU**  
**PRIMARY EXAMINER**